**Court No. 2**

**In the High Court of Uttaranchal at Nainital.**

**A.O. No. 96 of 2003.**

1. Shri Ram Pal S/o Shri Ram Lal
2. Smt.Saroj Devi W/o Shri Rampal,
   Residents of Village-Gokul Nagar,
   Tehsil-Kichha, District-Udham Singh Nagar.

.....Appellant/Claimants.

**Versus**

1. Asgar Ali S/o Chote Shah,
2. Shri Usaman Ali S/o Rais Ahmad,
   Both are resident of Village-Khajuriya,
   Police Station-Bhojipura,
   District-Bareilly, (U.P.)
3. The New India Assurance Company,
   through its Divisional Manager, Divisional
   Officer (Bhotiya Parao), Haldwani, Nainital.

.....Respondents/Opp.parties.

**Sri D.S.Patni, learned counsel for the appellants.**
**Sri Tanveer Alam Khan, learned counsel for the respondent No.3.**

**Dated: 23rd Agu.,2004**

**Hon'ble P.C. Verma, J.**
**Hon'ble B.S. Verma, J.**

This appeal has been preferred by the claimants/appellants against the judgment and order dated 31.01.2003 passed by Motor Accident Claims Tribunal/District Judge, Udham Singh Nagar in Motor Accident Claim Case No. 114 of 2001.

2- Brief facts giving rise to this appeal are that on 03.03.2001 at about 6.00 P.M. when Ajay Kumar alias Babu son of claimants was standing on the bank of the road to see the marriage party, truck No. URW-696 which was going from Haldwani to Kichha and being driven by its driver rashly and negligently hit Ajay Kumar who received

injuries and died on the spot due to said injuries. At the time of accident the deceased was aged 6 years and was a student. The claim petition was filed by the father and mother of the deceased for awarding compensation to the tune Rs. 7,10,000/-.

3- The Opp.parties Nos. 1& 2 did not deny the accident and stated that the offending truck was insured with the New India Insurance Company at the time of accident. The Opp.parties No.3- New India Insurance Company denied the factum of accident.

4- The learned Tribunal after formulating necessary issues and considering the evidence adduced, allowed an award of Rs. 75,000/- only. The learned counsel for the appellants contended that the Tribunal has not held the notional income of the deceased and arbitrarily awarded a sum of Rs. 75,000/-. We find force in the contention of the learned counsel for the appellants. In this case we hold the notional income of the deceased Rs. 15,000/- per annum and after deducting one-third the amount which is to be multiplied comes Rs. 10,000/-. Applying the multiplier of **'15'** as provided in second Schedule to Section 163-A of the Motor Vehicles Act, the amount of compensation comes to Rs. 10,000.00X15=1,50,000.00.

5- Thus, the appeal is allowed party. We modify the impugned award to the extent that the claimants shall be paid Rs. 1,50,000/- (Rupees one lac fifty thousand) only alongwith interest at the rate of 90% (nine per cent) per annum from the date of filing of the claim petition till the date of payment by the Opp.party No.3-Insurance Company.

**(B.S. Verma, J.)** **(P.C. Verma, J.)**

P.Singh